

Federal Trade Commission

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12. Personal identifying information provided is associated with known fraudulent activity as indicated by internal or third-party sources used by the financial institution or creditor. For example:

- a. The address on an application is the same as the address provided on a fraudulent application; or
- b. The phone number on an application is the same as the number provided on a fraudulent application.

13. Personal identifying information provided is of a type commonly associated with fraudulent activity as indicated by internal or third-party sources used by the financial institution or creditor. For example:

- a. The address on an application is fictitious, a mail drop, or a prison; or
- b. The phone number is invalid, or is associated with a pager or answering service.

14. The SSN provided is the same as that submitted by other persons opening an account or other customers.

15. The address or telephone number provided is the same as or similar to the address or telephone number submitted by an unusually large number of other persons opening accounts or by other customers.

16. The person opening the covered account or the customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.

17. Personal identifying information provided is not consistent with personal identifying information that is on file with the financial institution or creditor.

18. For financial institutions and creditors that use challenge questions, the person opening the covered account or the customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.

Unusual Use of, or Suspicious Activity Related to, the Covered Account

19. Shortly following the notice of a change of address for a covered account, the institution or creditor receives a request for a new, additional, or replacement card or a cell phone, or for the addition of authorized users on the account.

20. A new revolving credit account is used in a manner commonly associated with known patterns of fraud. For example:

- a. The majority of available credit is used for cash advances or merchandise that is easily convertible to cash (e.g., electronics equipment or jewelry); or
- b. The customer fails to make the first payment or makes an initial payment but no subsequent payments.

21. A covered account is used in a manner that is not consistent with established patterns of activity on the account. There is, for example:

a. Nonpayment when there is no history of late or missed payments;

b. A material increase in the use of available credit;

c. A material change in purchasing or spending patterns;

d. A material change in electronic fund transfer patterns in connection with a deposit account; or

e. A material change in telephone call patterns in connection with a cellular phone account.

22. A covered account that has been inactive for a reasonably lengthy period of time is used (taking into consideration the type of account, the expected pattern of usage and other relevant factors).

23. Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's covered account.

24. The financial institution or creditor is notified that the customer is not receiving paper account statements.

25. The financial institution or creditor is notified of unauthorized charges or transactions in connection with a customer's covered account.

Notice from Customers, Victims of Identity Theft, Law Enforcement Authorities, or Other Persons Regarding Possible Identity Theft in Connection With Covered Accounts Held by the Financial Institution or Creditor

26. The financial institution or creditor is notified by a customer, a victim of identity theft, a law enforcement authority, or any other person that it has opened a fraudulent account for a person engaged in identity theft.

[72 FR 63771, Nov. 9, 2007, as amended at 74 FR 22646, May 14, 2009]

PART 682—DISPOSAL OF CONSUMER REPORT INFORMATION AND RECORDS

Sec.

682.1 Definitions.

682.2 Purpose and scope.

682.3 Proper disposal of consumer information.

682.4 Relation to other laws.

682.5 Effective date.

AUTHORITY: Pub. L. 108-159, sec. 216.

SOURCE: 69 FR 68697, Nov. 24, 2004, unless otherwise noted.

§ 682.1 Definitions.

(a) *In general.* Except as modified by this part or unless the context otherwise requires, the terms used in this part have the same meaning as set

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forth in the Fair Credit Reporting Act, 15 U.S.C. 1681 *et seq.*

(b) “*Consumer information*” means any record about an individual, whether in paper, electronic, or other form, that is a consumer report or is derived from a consumer report. Consumer information also means a compilation of such records. Consumer information does not include information that does not identify individuals, such as aggregate information or blind data.

(c) “*Dispose,*” “*disposing,*” or “*disposal*” means:

(1) The discarding or abandonment of consumer information, or

(2) The sale, donation, or transfer of any medium, including computer equipment, upon which consumer information is stored.

§ 682.2 Purpose and scope.

(a) *Purpose.* This part (“rule”) implements section 216 of the Fair and Accurate Credit Transactions Act of 2003, which is designed to reduce the risk of consumer fraud and related harms, including identity theft, created by improper disposal of consumer information.

(b) *Scope.* This rule applies to any person over which the Federal Trade Commission has jurisdiction, that, for a business purpose, maintains or otherwise possesses consumer information.

§ 682.3 Proper disposal of consumer information.

(a) *Standard.* Any person who maintains or otherwise possesses consumer information for a business purpose must properly dispose of such information by taking reasonable measures to protect against unauthorized access to or use of the information in connection with its disposal.

(b) *Examples.* Reasonable measures to protect against unauthorized access to or use of consumer information in connection with its disposal include the following examples. These examples are illustrative only and are not exclusive or exhaustive methods for complying with the rule in this part.

(1) Implementing and monitoring compliance with policies and procedures that require the burning, pulverizing, or shredding of papers containing consumer information so that the in-

formation cannot practicably be read or reconstructed.

(2) Implementing and monitoring compliance with policies and procedures that require the destruction or erasure of electronic media containing consumer information so that the information cannot practicably be read or reconstructed.

(3) After due diligence, entering into and monitoring compliance with a contract with another party engaged in the business of record destruction to dispose of material, specifically identified as consumer information, in a manner consistent with this rule. In this context, due diligence could include reviewing an independent audit of the disposal company’s operations and/or its compliance with this rule, obtaining information about the disposal company from several references or other reliable sources, requiring that the disposal company be certified by a recognized trade association or similar third party, reviewing and evaluating the disposal company’s information security policies or procedures, or taking other appropriate measures to determine the competency and integrity of the potential disposal company.

(4) For persons or entities who maintain or otherwise possess consumer information through their provision of services directly to a person subject to this part, implementing and monitoring compliance with policies and procedures that protect against unauthorized or unintentional disposal of consumer information, and disposing of such information in accordance with examples (b)(1) and (2) of this section.

(5) For persons subject to the Gramm-Leach-Bliley Act, 15 U.S.C. 6081 *et seq.*, and the Federal Trade Commission’s Standards for Safeguarding Customer Information, 16 CFR part 314 (“Safeguards Rule”), incorporating the proper disposal of consumer information as required by this rule into the information security program required by the Safeguards Rule.

§ 682.4 Relation to other laws.

Nothing in the rule in this part shall be construed:

(a) To require a person to maintain or destroy any record pertaining to a

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consumer that is not imposed under other law; or

(b) To alter or affect any requirement imposed under any other provision of law to maintain or destroy such a record.

§ 682.5 Effective date.

The rule in this part is effective on June 1, 2005.

PART 698—MODEL FORMS AND DISCLOSURES

Sec.

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APPENDIX A TO PART 698—MODEL FORMS FOR RISK-BASED PRICING AND CREDIT SCORE DISCLOSURE EXCEPTION NOTICES

APPENDIX B TO PART 698—MODEL FORMS FOR AFFILIATE MARKETING OPT-OUT NOTICES

AUTHORITY: 12 U.S.C. 5519; 15 U.S.C. 1681m(h); 15 U.S.C. 1681s-3; 15 U.S.C. 1681s-3 note.

SOURCE: 69 FR 35500, June 24, 2004, unless otherwise noted.

§ 698.1 Authority and purpose.

(a) *Authority.* This part is issued by the Commission pursuant to the provisions of the Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*), as amended by the Consumer Credit Reporting Reform Act of 1996 (Title II, Subtitle D, Chapter 1, of the Omnibus Consolidated Appropriations Act for Fiscal Year 1997), Public Law 104-208, 110 Stat. 3009-426 (Sept. 30, 1996), the Fair and Accurate Credit Transactions Act of 2003, Public Law 108-159, 117 Stat. 1952 (Dec. 4, 2003), and the Dodd-Frank Wall Street Reform and Consumer Protection Act,

Public Law 111-203, 124 Stat. 1376-2223 (July 21, 2010).

(b) *Purpose.* The purpose of this part is to comply with sections 615(h) and 624 of the Fair Credit Reporting Act, as amended by the Fair and Accurate Credit Transactions Act of 2003, and section 214(b) of the Fair and Accurate Credit Transactions Act of 2003.

[84 FR 23473, May 22, 2019]

§ 698.2 Legal effect.

The model forms and disclosures prescribed by the FTC in this part do not constitute a trade regulation rule. The issuance of the model forms and disclosures set forth in appendices A and B of this part carry out the directive in the statute that the FTC prescribe these forms and disclosures. Use or distribution of the model forms and disclosures in this part will constitute compliance with any section or subsection of the FCRA requiring that such forms and disclosures be used by any motor vehicle dealer subject to the FTC's rule-making authority.

[84 FR 23473, May 22, 2019]

§ 698.3 Definitions.

As used in this part, unless otherwise provided:

(a) *Substantially similar* means that all information in the Commission's prescribed model is included in the document that is distributed, and that the document distributed is formatted in a way consistent with the format prescribed by the Commission. The document that is distributed shall not include anything that interferes with, detracts from, or otherwise undermines the information contained in the Commission's prescribed model.

[69 FR 69784, Nov. 30, 2004]

APPENDIX A TO PART 698—MODEL FORMS FOR RISK-BASED PRICING AND CREDIT SCORE DISCLOSURE EXCEPTION NOTICES

1. This appendix contains four model forms for risk-based pricing notices and three model forms for use in connection with the credit score disclosure exceptions. Each of the model forms is designated for use in a particular set of circumstances as indicated by the title of that model form.

2. Model form A-1 is for use in complying with the general risk-based pricing notice requirements in § 640.3 if a credit score is not used in setting the material terms of credit.